

Docket No.: 146392005000
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Dorothea REILLY et al.

Patent No.: 7,608,429

Confirmation No.: 7395

Issued: October 27, 2009

Art Unit: 1644

For: METHODS AND COMPOSITIONS FOR
INCREASING ANTIBODY PRODUCTION

Examiner: I. Ouspenski

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On behalf of applicants, the undersigned requests reconsideration of the patent term adjustment indicated in the Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth, mailed April 30, 2010. This application for patent term adjustment is being filed within one month of the mailing date of the Decision and is, therefore, timely. The fee required under 37 CFR 1.705(b)(1) as set forth in 37 CFR 1.18(e) is enclosed with the present application.

Correct Patent Term Adjustment

Applicants respectfully request a credit of 36 days be added to the 681 days of adjustment as indicated in the Decision. The additional credit, minus applicants' delay, results in a revised total of 717 days of patent term adjustment.

Statement of Facts

According to the Office's Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth, mailed April 30, 2010, applicants are entitled to 681 days adjustment of patent term. Applicants disagree with the Patent Term Adjustment of 681 days and reconsideration is respectfully requested.

The Office failed to mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 within 14 months of the filing date of the present application. The Office correctly credits applicants 447 days of adjustment in accordance with 35 USC 154(b)(1)(A)(i) and 37 CFR 1.702(a)(1), 1.703(a)(1).

Applicants filed a response on October 27, 2006 to a non-final office action, mailed June 30, 2006. The Office correctly calculates 27 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).

Applicants filed a response on June 8, 2007 to a non-final office action, mailed January 8, 2007. The Office correctly calculates 61 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).

Applicants filed a response on June 26, 2008 to a non-final office action, mailed February 26, 2008. The Office correctly calculates 31 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).

Applicants filed a Supplemental Information Disclosure Statement on June 3, 2009. Applicants calculate 13 days of applicants' delay in accordance with 37 CFR 1.704(c)(8).

The Office failed to issue a patent within 3 years after the date on which the present application was filed (May 22, 2006). Based on the issue date of October 27, 2009, applicants are entitled to a credit of 402 days in accordance with 35 USC 154(b)(1)(B) and 37 CFR 1.702(b), 1.703(b). However, the Office has incorrectly calculated 353 days. The total number of credit days

from October 30, 2006 (3 years from the filing date) to December 7, 2007 (filing date of the first Request for Continued Examination) is 402 days, not 353 days. Applicants respectfully request 402 credit days be added to the total term adjustment for failure to issue the patent within 3 years from the filing date.

Applicants calculate a total Office delay of 849 days and applicants' delay of 132 days, for a revised total of 717 days of additional patent term. Based on the foregoing information, applicants respectfully request reconsideration of the patent term adjustment.

Conclusion

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing Attorney Docket No. 146392005000.

Dated: May 27, 2010

Respectfully submitted,

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